

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA

Plaintiff

-vs-

GERALD ATKINSON

Defendant

: CASE NO. 1: 04 CR 478

:
: ORDER GRANTING MOTION TO
: CONTINUE
:
:
:

UNITED STATES DISTRICT JUDGE LESLEY WELLS

On 14 September 2004, defendant Gerald Atkinson was charged in a four-count indictment. (Docket #1). The trial on these counts was initially scheduled for 27 December 2004. On 19 November 2004, Mr. Atkinson filed a motion to continue the final pre-trial and trial asserting that the additional time was necessary due to the complex nature of the case. (Docket #14). The government did not oppose the motion. This Court granted the motion, and, after working with the parties to identify reasonable and mutually agreeable dates, reset the trial for 11 April 2005. (Docket #15). On 14 March 2005, Mr. Atkinson filed a second motion to continue the trial due to scheduling conflicts, what he asserted was the need for additional time to locate potential witnesses, and the complexity of the case. (Docket #16). The government did not oppose the motion. Granting Mr. Atkinson's second motion for a continuance, this Court rescheduled the trial for 11 July

2005.

Mr. Atkinson filed his third motion to continue the trial on 27 April 2005. (Docket #19). Mr. Atkinson's sole basis for yet another continuance was once again linked to the complex nature of the case. This time the government opposed Mr. Atkinson's request. (Docket #20). Because Mr. Atkinson had not presented a sufficient justification for his third request for a continuance, this Court denied his request. (Docket #21). At Mr. Atkinson's 23 June 2005 final pre-trial conference, he orally renewed his request for a continuance, arguing that he needed additional time to retain his own expert to review the government's evidence and its expert analysis. Given the number of continuances already granted to Mr. Atkinson and the amount of time still remaining prior to the 11 July 2005 trial, this Court denied his request for a continuance.

On 30 June 2005, Mr. Atkinson filed another motion to continue which emphasized the importance of the expert analysis to his case and which asserted that he had retained an expert, but that the expert was unavailable to testify at the presently scheduled trial. (Docket #23). Despite having been given the opportunity to respond, the government elected to defer to this Court's discretion and not file a response to Mr. Atkinson's request. Having considered the applicable law and the particular circumstances of this case, this Court grants Mr. Atkinson's motion to continue. The trial in this case is reset for Wednesday, 12 October 2005, at 9:00 a.m. **No further continuances will be granted.**

IT IS SO ORDERED.

/s/ Lesley Wells
UNITED STATES DISTRICT JUDGE